

The Washington Board

Informing Professional Engineers and Professional Land Surveyors of the events and developments that affect their professions



Journal

Number 37 • Spring 2006

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If you, or someone you know, would like to receive a copy of this publication, please contact the Board of Registration for Professional Engineers and Land Surveyors.

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Message from the Chair

“The Message from the Chair” is a reflection of the personal opinions and experiences of the Board Chair. Comments in the article may be shared by various members of the Board, but they are not to be interpreted as a policy, position, or consensus of the Board unless specifically so indicated.

From Ying Fay Chan, P.E., S.E.

In the Fall 2005 Journal, I reported two on-going NCEES events/processes; the possible establishment of a National Structural III exam and the proposed change of educational requirements for professional licensure. At this time I do not have anything further to report except that they are still ongoing. I am hopeful that there will be some definitive outcome from the upcoming NCEES Annual in September.

BOARD ACTIVITIES/ACCOMPLISHMENTS

I would like to say to our constituents that through the persistent effort of your Board and the diligent work of the Board Staff, the rules for Continuing Professional Development for the Professional Land Surveyors and the Continuing Education requirements for On-Site Designers and Inspectors have made great progress and are now being finalized. The new CPD rules for land surveying will be codified in chapter 196-16 WAC. The CE rules for Onsite will appear in a new chapter 196-34 WAC. In both cases the scheduled effective date is July 1, 2006. It will be a year later, July 1, 2007, when the Board will commence random audits of compliance with these rules.

With the filling of vacant positions of staff investigators and streamlining of the administrative process and complaints, I now can report to you that marked improvements have been achieved in the investigative and complaint caseloads. As time goes by, with gains in experience and operational efficiency, further improvements are sure to come.

BOARD SERVICE

Since I was appointed to the Board almost six years ago, I have seen significant changes in the composition of the Board. From when I was first appointed, four of the six members have completed their terms and left the Board. Yet their legacies and accomplishments remain. It is no surprise that as the new Board renews itself with new members, each having unique professional backgrounds and life experiences, the character — and to some extent the way the Board functions — will continue to evolve. However, one thing is for sure, its core duty will remain constant: that of protecting the public's health, safety, and welfare. From my perspective what I really want to say is that it is an honor and privilege to serve as a Board member and I would like to take this opportunity to appeal to my fellow practitioners who are licensed in structural engineering to consider applying to the Governor's office for an appointment to fill the position to be vacated by Ms. Nancy Miller Duevel as she completes her 2nd term in July of this year.

Continues on page 14

News to You

Albert J. Hebrank, Jr., ...a pioneer in helping establish the National Society of Professional Surveyors (NSPS)



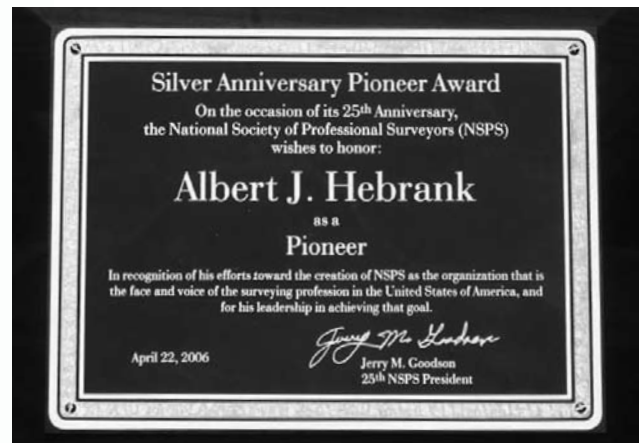
The following is an excerpt of an article by Curt Sumner, Executive Director of the American Congress on Surveying and Mapping. It appears in the April 2006 edition of the ACSM Bulletin and commemorates the 25th anniversary of the NSPS. This article also gives noted recognition to a handful of visionary land surveyors who saw a need and took the initiative to build this respected organization. One of those is our own (now retired Washington Board member) Albert J. Hebrank, Jr., P.L.S.

Ever since five members of the Land Surveyors Division (LSD) of ACSM met in a hotel room in September 1979 to discuss what a national organization for surveyors would look like, NSPS has been working toward being recognized as that organization.

The meeting took place during the fall ACSM conference in Sioux Falls, South Dakota. Those in attendance were Paul Lapham (Michigan), Richard Biggs (North Carolina), Paul Lamoreaux (California), Al Hebrank (Washington), and Lew Boyd (Kansas). Paul Lapham became the first president of what was to be known as the National Society of Professional Surveyors (NSPS). Al Hebrank became the third president, and Richard Biggs the eighth. To this day, Paul Lamoreaux is an active NSPS member, and actively participates in its Northern California Section. Mr. Boyd (now deceased) was once described by Richard Biggs as the "ultimate grass-roots country surveyor" from Newton, Kansas. At the time of the 1979 meeting, he was secretary of the LSD.

This article only lightly touches on the contributions of these individuals and their influence on the growth of professional land surveying as a highly respected profession. However, in the most recent ACSM annual meeting in Orlando, Florida, Executive Director, Curt Sumner presented special awards to those pioneers. Mr. Hebrank was unable

to personally attend the meeting but was amply represented by his wife, Ruth and representatives of the Land Surveyors Association of Washington. During the awards ceremony Al was able to convey his personal thanks to Curt through a cell phone hook-up as he addressed the audience at the ceremony.



The current and past members of the Board and staff, who have had the pleasure of working with Al, know and understand the significance of this recognition as well as what Al is to the land surveying profession in Washington and across the US. We congratulate him and pass along our sincere thanks for his great effort and vision.

As The Courts See It

In a recent decision by the Kentucky Supreme Court, the long contested battle between the Kentucky Board of Licensing and Earl F. McKinney, P.E. has ended. The original action was initiated upon complaints that Mr. McKinney was engaged in conduct in violation of Kentucky law. Specifically, he was placing his stamp on documents of which he did not have direct supervision (plan stamping).

In a decision on November 16, 2005, the Kentucky Supreme Court denied a motion for discretionary review filed by Mr. Earl F. McKinney, PE. His request stemmed from a review of the Board's decision by both the local Franklin County Circuit Court and the Kentucky Court of Appeals. In both actions the Board's initial decision to revoke his license was upheld.

The initial complaint against Mr. McKinney was filed in early 1998 and later amended in early 1999. In late 2001 a three-day hearing resulted in the Kentucky Board revoking

Continues next page

Mr. McKinney's professional engineer's license. The order of the Board was issued July 11, 2002. Mr. McKinney then initiated the appeal process reported above.

According to information from the Kentucky Board of Licensing their investigation disclosed:

- Mr. McKinney was licensed in 48 jurisdictions (including Washington).
- Mr. McKinney was identified as having "signed and sealed" between 950 and 1000 projects annually.
- Many project drawings were received in McKinney's offices in the morning and returned signed and sealed to the client that same afternoon.
- The investigation obtained blank blue line paper that contained Mr. McKinney's seal and signature.
- Evidence was revealed that many completed project plans contained the seal and signature of Mr. McKinney yet he had never seen them.
- Some of his branch offices had blank signed sheets, a duplicate PE stamp and a stamp of Mr. McKinney's signature.
- Mr. McKinney had been disciplined by other states but failed to reveal all states where he was registered.
- Many of his clients were "national" chains or franchise operations.

What does Washington Law say?

Washington Law, Chapter 18.43 RCW and the Board rules in title 196 WAC clearly make it unlawful for a licensed professional engineer to place his or her seal on any document that was not prepared by or under their direct supervision. Such action can result in any number of sanctions including revocation. Washington Law also provides for the Board to take action against a licensee based upon disciplinary action that occurred in another jurisdiction.

"Time" – The Brain Drain of the Land Surveying Profession

Some say that perception is reality. Well, if so, then that axiom is no truer than the current status of licensed land surveyors in Washington State. Recently we did an analysis of the licensing database for those who are licensed as professional land surveyors as well as those seeking licensure. From that review and the following statistics, a reality is that our profession is about to lose a significant part of its membership.

Professional Land Surveyors:

- Currently there are 1138 actively licensed professional land surveyors.
- 70% are over the age of 51.
- 50 % of the licensees are over 56 years of age.

Professional Engineers licensed as Land Surveyors:

- Currently there are 353 individuals with a combined license as PE & LS.
- 70% are over age 65.
- 95% are over age 51.

Land Surveyor-in-Training:

- Currently there are 224 active Land Surveyors in Training.
- An additional 64 are currently approved to sit for the LSIT exam.

One can only conclude that the future of land surveying in Washington will face a significant shortage of sufficient practitioners as this workforce ages. This will become a problem, not only for the customers who need these services, but the ability of consulting firms to employ qualified individuals to provide these services.

There are also opportunities in these numbers to entice young men and women to pursue careers in this vital profession. How best to pursue and accomplish that is the combined responsibility of all licensees. Act now for the "brain drain" is soon to arrive.

How Important Is Your Verification?

If you have been licensed for a few years you may have been asked by someone to complete a verification of his or her experience while under your direct supervision. This verification is part of an individual's application for licensure as a professional engineer or land surveyor. It is a step that helps the Board determine if an individual is truly qualified and ready to sit for the professional examination.

In a typical application the individual explains their various employment engagements where they were practicing their profession. In each engagement they are asked to provide a detailed accounting of the type of work they performed. For instance, in the PE application, applicants are asked to explain their experience in categories such as: formulating conclusions and recommendations; identifying design objectives; alternative methods and concepts;

Continues on page 6

The Board Moves Forward With Selected Fee Suspensions

For many months the Board has been monitoring the revenue trend on collection of fees from applications, examinations and renewals. The forecasting models upon which the Board relies have shown that collections could exceed spending needs through the next two years. To respond to this information in a productive and meaningful way, the Board approved the recommendation to suspend portions of selected fees until the summer of 2008.

Rule notices of these proposals produced no comments from licensees or other interested parties. Below you will see a table of the fees that were adjusted through these suspensions and the dates those fees are effective.

Chapter 196-26A WAC

REGISTERED PROFESSIONAL ENGINEERS AND LAND SURVEYOR FEES

Effective March 1, 2006 the following fees will have the listed portions suspended from collection until **July 1, 2008**.

| Fee categories | Current Fees | Portion Suspended | Temporary Fees |
|-------------------------------|--------------|-------------------|----------------|
| STRUCTURAL ENGINEERING: | | | |
| Structural III | | | |
| Examination & application fee | \$ 365 | \$ 35 | \$ 330 |
| Structural III | | | |
| Examination retake: | \$ 330 | \$ 30 | \$ 300 |
| Comity Licensure | | | |
| Engineering | \$ 110 | \$ 40 | \$ 70 |
| Surveyor comity | \$ 140 | \$ 40 | \$ 100 |

Effective July 1, 2006 the following fees will have the listed portions suspended from collection until **July 1, 2008**.

| Fee categories | Current Fees | Portion Suspended | Temporary Fees |
|----------------------------|--------------|-------------------|----------------|
| LICENSE RENEWALS: | | | |
| Engineer | | | |
| Engineer renewal w/penalty | \$ 116 | \$ 16 | \$ 100 |
| | \$ 174 | \$ 24 | \$ 150 |
| Surveyor | | | |
| Surveyor renewal w/penalty | \$ 116 | \$ 16 | \$ 100 |
| | \$ 174 | \$ 24 | \$ 150 |

Chapter 196-30 WAC

FEES FOR ON-SITE WASTEWATER TREATMENT DESIGNERS AND INSPECTORS

Effective March 1, 2006 the following fees will have the listed portions suspended from collection until **July 1, 2008**.

| Fee categories | Current Fees | Portion Suspended | Temporary Fees |
|----------------------------|--------------|-------------------|----------------|
| DESIGNER LICENSING: | | | |
| Application | \$ 175 | \$ 25 | \$ 150 |
| CERTIFICATE OF COMPETENCY: | | | |
| Application | \$ 175 | \$ 25 | \$ 150 |

Effective July 1, 2006 the following fees will have the listed portions suspended from collection until **July 1, 2008**.

| Fee categories | Current Fees | Portion Suspended | Temporary Fees |
|----------------------------|--------------|-------------------|----------------|
| CERTIFICATE OF COMPETENCY: | | | |
| Renewal | \$ 250 | \$ 100 | \$ 150 |
| Late renewal | \$ 350 | \$ 100 | \$ 250 |

defining specifications and many others. They are asked to describe their experience in specific terms and provide an indication of how many years/months of experience they gained.

When an applicant has completed their work experience accounting, that portion of the application is then forwarded to those professionals who had direct supervision over the time when the experience was gained or can attest to having knowledge of the accuracy of the applicant's statements.

When a licensee is asked to complete the experience verification they become a significant part of the application process. Their role and the statements they make help ensure that the Board meets the first two objectives in its Mission:

That only qualified applicants are permitted to take the examinations for licensure.

That only competent individuals are granted licensure to practice.

It is a very important part of the process because it is the supervisors who have the best understanding of the applicant's suitability for licensure. If a licensee does not do a thorough job in the verification process or knowingly endorses a candidate for licensure that has not gained the necessary experience, the verifying professional has potentially exposed the public to unnecessary risks and harm. They are also in likely violation of the Rules of Professional Conduct, which could result in disciplinary action by the Board.

When you are asked to perform this important assignment accept it with the gratitude that your opinion is highly respected and the responsibility that only qualified individuals should sit for the exam.

Legislative Report

The 2006 Legislative Session was generally a quiet one with regards to issues that the Board or the Department were obliged to comment upon. Here are a couple of interest:

HB 2354 Redefining the "Practice of Land Surveying"

This bill was a proposed amendment to Chapter 18.43 RCW forwarded by the Land Surveyors Association of Washington. It proposed considerable changes to the current law by adding to the scope of practice of land surveying activities that had not been previously regulated. The Board and the Department's position were neutral but we did express concerns over the financial impact the bill

could create if implemented. The Bill did have a public hearing on January 11th but failed to pass out of committee for further action.

HB 1395 Updating the Uniform Regulations of Business and Professions (URBP)

This bill was DOL request legislation first introduced in 2005. It was proposed to help fix a variety of ambiguities in the original law from 2002 as well as incorporate needed updating to encompass program changes in the Business and Professions Division since 2002. An engrossed version passed the House, but no action was taken in the Senate.

New Rules Under Consideration

Over the past several months the Board has been working on language for some new rules prompted by input from licensees. First is a rule that was developed to address the question about "incidental surveying practice" by professional engineers. As you may recall this stemmed from a legal analysis that said the Board's past practice of allowing engineers to perform limited surveying on their projects was not supported in law. Recommendations were to discontinue the practice outright, amend the law through the legislature, or write rules clarifying that portion of engineering practice. The Board chose to take the rule approach and has given its preliminary approval to the following:

Engineering Measurements. It is recognized that occasionally field measurements necessary for an engineering design are made by an engineer and can be considered to be within the practice of engineering. However, when those measurements reach a level of complexity that will require the preparation of a topographic map to utilize them, the field measurements and the resultant map are the practice of land surveying as defined in RCW 18.43.020(9) and must be done by or under the direct supervision of a professional land surveyor.

Secondly, the Board was approached some time ago about the possibility of special rules and titles for those licensed in structural engineering. One proposal was that a unique stamp be authorized so the public could distinguish those licensed in structural engineering. The Board did not favor that but did believe that specific authorization to use the title of "S.E." was appropriate. The Board has recommended the following proposal:

Use of the Title “S.E.” Only professional engineers who have completed the State of Washington’s requirements for licensure in structural engineering are permitted to use the title of SE when representing his or her licensing credential, as in, *James Smith, P.E., S.E.* Use of the title SE by any individual who is not licensed in structural engineering as provided in Chapter 18.43 RCW, is subject to disciplinary action by the Board in accordance with Chapter 18.43 RCW and/or Chapter 18.235 RCW.

Neither of these rules has started the formal rule making process but if you are interested in commenting on either we would welcome your input. Please send your comments to our email address: engineers@dol.wa.gov.

Land Surveyors Show Interest In The New Continuing Professional Development

In late January and early February the Board sponsored ten workshops around the state to give surveyors an opportunity to discuss their views and concerns about draft rules for the new continuing professional development requirements. While turnouts at each meeting ranged from 1 to 12, the collective participation did illustrate that there were issues and questions.

In general, the sentiment was supportive of the Board’s approach to make this as little of a burden on licensees as possible, but still retain enough structure and oversight that the program satisfies the legislative intent. Most comments received sought to address how credits would be gained. One particular provision that drew a majority of comment was on the acceptance of “self-study” as a qualifying activity. The initial draft of the rules proposed that a maximum of 4 professional development hours be from “self-study”. Some commented that was too lenient while others wanted the limit raised so that individuals in more rural areas of the state, which may have difficulty in attending various conferences, meetings and seminars, would have a way to obtain sufficient PDH without it being a hardship.

Another item that was discussed was allowance for possible exemptions when individuals are either not in active practice, in military service or affected by medical disability. In their discussions the Board did agree that some accommodation for exemptions should be

part of the rules.

Considering input from licensees, the Board made further revisions to the draft and filed the necessary forms for rule making with the Office of the Code Reviser on February 28th. We distributed copies of that version of the rules to all licensed land surveyors.

Hearings on the rule proposals were held:

April 19, 2006, 6:30 pm

LaQuinta Inn

1905 N. Wenatchee Ave. • Wenatchee, WA

April 20, 2006, 6:30 pm

Spokane Airport Ramada

8909 Airport Drive • Spokane, WA

April 26, 2006, 6:30 pm

LaQuinta Inn

1425 E. 27th Street • Tacoma, WA

Changes Coming For Those Licensed As Both A Professional Engineer And A Professional Land Surveyor

For many years it has been the Board’s position that individuals who are licensed as both professional engineers and professional land surveyors would be able to renew both licenses through a single renewal transaction. Even though there was no provision for such in state law or rules, the Board allowed those licensed as professional engineers and professional land surveyors to pay a single renewal fee to renew both credentials.

With the new provisions for Continuing Professional Development (CPD) for professional land surveyors about to take effect on July 1, 2006, the continued combining of the two licenses for renewal purposes is no longer practical. Starting with license renewals that are due on or after July 1, 2007, those individuals who now pay one renewal fee for their “combined” license will have to pay a separate renewal fee for each license. Under the current fee schedule, the “combined” license holder will need to pay \$116 for the PE license and \$116 for the LS license renewals for a total of \$232.

If a “combined” license holder does not choose to keep both of the licenses active they may simply not renew the one they do not need and it will fall into expired status.



The remaining license will be unaffected and may be continued in active status with payment of the correct fees at the time of renewal.

Soon there will be a series of Questions and Answers on the Board's website explaining in more detail how this new process will be implemented. The Board's web address is:

www.dol.wa.gov/engineers/engfront.htm.

**THIS CHANGE WILL NOT
TAKE EFFECT UNTIL
JULY 1, 2007**

Continuing Education Rules For On-Site Designers And Inspectors

On February 28, 2006 the Board filed its proposal for rule making which implements the Continuing Education for professionals licensed/certificated under the On-Site Designer Program, Chapter 18.210 RCW. The notice and the rule language were mailed shortly thereafter to all licensed designers and certificate of competency holders. If interested, you may access these rules by going to the Board's website:

www.dol.wa.gov/engineers/onsitefront.htm

The rules for the on-site professionals continuing education are different from many similar such programs because the compliance with the rules are not a condition of license renewal. Individuals are expected to accrue the necessary PDH credits in the annual period between their birth dates, a minimum of 45 for any three-year period.

Hearings on the rule proposals were held:

April 19, 2006, 6:00 pm

LaQuinta Inn

1905 N. Wenatchee Ave. • Wenatchee, WA

April 20, 2006, 6:00 pm

Spokane Airport Ramada

8909 Airport Drive • Spokane, WA

April 26, 2006, 6:00 pm

LaQuinta Inn

1425 E. 27th Street • Tacoma, WA

The Washington Board Journal Questions & Answers

QUESTION: *In my practice as a consultant I am frequently required to submit partially finished documents to the local regulatory authority for various reasons. Sometimes it is for planning discussions on how the development will agree with guidelines. Other times it is for preliminary determinations of traffic impacts or utility needs. In all the discussions I have the county staff refer to these drawings as "preliminary" yet they are used as the basis of obtaining advance approvals on various issues. Because I thought they were preliminary I did not seal and stamp them.*

Recently a colleague reminded me that the Board rule in WAC 196-23-020 on Seal/Stamp usage defines any plan submitted to public officials for agency approvals is a "final" document. It goes on to say that final documents must be signed and sealed. Is he correct?

ANSWER: He is correct. Even though the county is considering the documents you describe as preliminary, the actual use as you described falls in the definition of a "final document". In the future you will need to stamp and seal those documents.

QUESTION: *As a land surveyor I am frequently engaged in a project that may take many months from start to finish. Sometimes in short platting I will perform the survey in the first few months to make sure all boundary issues are fully identified. Sometimes shortly thereafter I set lot corners but the final approvals of the plat and the recording may be months later. The question I have is: on the statement about when I performed the survey, am I required to use the date I set the corners or the date the plat is recorded?*

ANSWER: There are no specific rules that address your question. While the Survey Recording Act requires a recording within 90 days of completion, it is not clear if that provision would also apply to short plats. However, when making a statement or certification about the date of the survey it should be the date when the monuments were set as opposed to a much later date of recording or filing after a plat is approved.

QUESTION: *I understand that the Board is moving forward with splitting the combined license that now exists for*

those licensed as professional engineers and professional land surveyors. Why is that?

ANSWER: For many years the Board chose to allow those licensed as both PE and LS to renew both licenses under a single renewal transaction. Combined licenses, as we referred to them, were required to pay the total of \$116 to affect a renewal of both licenses.

With the creation of continuing education (CE) for only professional land surveyors and the possible resulting corrective action the Board could take for non-compliance with CE, the continued linking of the two licenses was no longer practical. Splitting these licenses starting on July 1, 2007 will now require a “combined licensee” to renew one or the other or both.

QUESTION: *I know of a licensed On-site Designer who has prepared designs of small retaining walls and grading plans. He has stamped those plans with his designer stamp claiming that it is within his scope of practice. Is that true?*

ANSWER: The scope of practice for licensed On-site Designers does not now, and never has, included performing designs for retaining walls or site grading and drainage. Such work is the practice of engineering and must be performed by someone licensed as a PE.

QUESTION: *In the recent legislative session the Land Surveyor’s Association of Washington proposed amendments to the Engineer’s Registration Act (chapter 18.43 RCW) that would have changed the definition of “land surveying”. What is the Board’s position on this proposal?*

ANSWER: When this matter was discussed at a past Board meeting there were some who supported the proposal and some who did not. From an official point of view both the Board and the Department were on record as being “neutral”. From an administrative standpoint the impact of the changes were expected to require expanded investigation capacity to handle the expected complaints that would have arisen from the new scope of regulatory oversight contained in the bill.

What Our Readers Say

Question and Answer:

In the Fall *Journal* we published a response to a question that raised a response from a reader. On page 10 the question asked “When a second engineer is retained to

make changes to another’s design, doesn’t the second engineer have an obligation to notify the engineer of record?

We answered NO by referencing provisions that should have read WAC 196-27A-020 (a), (b) & (c). This response was a continuation of the scenario detailed in the first question of that section. The reader pointed out that WAC 196-27A-030(9) contradicts our response and he was correct.

What we failed to catch in our editing was that the question incorrectly asked about a second engineer being retained to “...make changes to another’s design...” Our intention was to have the question ask about retaining an engineer to “...review another’s design”. We are glad this error was brought to our attention.

As a reminder, WAC 196-27A-030(9) says that an explicit act of misconduct is: *Modifying another licensee’s work without notifying the licensee, and clearly delineating the modification and sealing and signing the modification made; EXCEPT where the plans, maps, or documents are modified by the owner to reflect changes over time for their own purposes and are not used for submittals or bid documents.*

Investigations and Enforcement:

In the Fall *Journal* two land surveyors were curious about the conditions of a case that was reported. The case in question was No. 03-11-0005 on pages 15 & 16. Their concern was that the decision on the case appeared to conflict with the requirements of the Survey Recording Act. Our report described survey activity that was *for* a public agency and therefore exempt. It was pointed out that the exemption in the SRA is for surveys *by* a public official or agency. [Emphasis provided]

The readers are correct on the appropriate application of the SRA and its exemptions. What occurred here that was not detailed in the case summary is that the reviewing case manager interpreted the relationship between the agency and the surveyor as so detailed and controlling that the surveyor had no independent control or decision-making. The case manager saw the surveyor essentially as part of the agency. While the case manager did not like the situation as it developed he was unwilling to punish the surveyor under the circumstances that existed at the time.

Keep in mind that any case reports in the *Journal* are abbreviated and condensed for space considerations. It should also be kept in mind that decisions reached by the case managers are based upon their understanding of the unique circumstances of the case. It would be incorrect for anyone to interpret a particular decision as precedent setting on future similar situations.

| | Total | Pass | % Pass |
|--|-------|------|--------|
| Fundamentals of Engineering (EIT) | 437 | 252 | 58% |
| <u>Principles & Practice of Engineering</u> | | | |
| Chemical | 7 | 6 | 86% |
| Civil | 207 | 99 | 48% |
| Control Systems | 2 | 1 | 50% |
| Electrical | 38 | 19 | 50% |
| Environmental | 11 | 6 | 55% |
| Fire Protection | 5 | 1 | 20% |
| Industrial | 3 | 2 | 67% |
| Mechanical | 51 | 40 | 78% |
| Metallurgical | 3 | 0 | 0% |
| Nuclear | 2 | 1 | 50% |
| Structural II | 89 | 22 | 24% |
| Structural III | 31 | 23 | 74% |
| Fundamentals of Land Surveying (LSIT) | 31 | 23 | 74% |
| <u>Principles & Practice of Land Surveying</u> | | | |
| NCEES (6-hour) | 21 | 19 | 90% |
| WA Specific L S (2-hour) | 47 | 21 | 45% |
| On-site Designer | 12 | 5 | 42% |
| On-site Inspector | 10 | 7 | 70% |

ABET Licensure Policy Statement

The ABET Board of Directors, at their October 29, 2005 meeting, approved a policy statement proposed by the National Council of Examiners for Engineering and Surveying (NCEES) and the National Society of Professional Engineers (NSPE) and endorsed by the American Society of Civil Engineers (ASCE). The policy statement on licensure and licensure related certification, which encourages the pursuit of licensure as a means of enhancing individual credentials, reads:

“ABET encourages graduates of ABET accredited programs and other educationally qualified persons who work or practice in the applied

sciences, computing, engineering, and technology professions to strive for professional recognition by enhancing their individual credentials through licensure and certification programs. Licensure and certification are among the recognized methods of demonstrating to the public an individual's competency, qualification and expertise in professional practice. Moreover, licensure and licensure related certification provide a commitment to the understanding of professional, ethical, and societal responsibilities, and emphasize the protection of the public health, safety, and welfare within society.”

Investigations & Enforcement

Statistics of Actions Taken by the Board

JULY 1, 2005 THROUGH DECEMBER 31, 2005

| | |
|---|----|
| Active investigations as of July, 2005 | 67 |
| Investigations Opened | 19 |
| Investigations Closed | 11 |
| Active Investigations as of December 31, 2005 | 75 |

SUMMARY BY MONTH:

| | Complaints Received | Inquiries Received | Investigations Opened* |
|---------------|------------------------|-----------------------|---------------------------|
| July | | No Meeting | |
| August | 15 | 2 | 10 |
| September | 8 | 3 | 4 |
| October | | No Meeting | |
| November | 9 | 4 | 5 |
| December | | No Meeting | |
| Totals | 32 | 9 | 19 |

* Investigations can be opened by either a complaint or an inquiry received.

SUMMARY BY PROFESSION AS OF DECEMBER 31, 2005

| | Active Investigations | † Compliance Orders |
|-----------------------|--------------------------|------------------------|
| Prof. Engineers | 22 | 0 |
| Prof. Land Surveyors | 14 | 2 |
| Unlic. Engineers | 8 | 0 |
| Unlic. Land Surveyors | 9 | 0 |
| On-site Designers | 22 | 0 |
| Totals | 75 | 2 |

† Given the issuance and acceptance of the Agreed Order, the case manager is recommending that the investigation be closed and the file referred to compliance monitoring.

Summaries Of Investigations And Actions By The Board

In the following case summaries you will read of the disciplinary actions against licensees from July 1, 2005 to December 31, 2005. In each disposition the Board accepted the recommendations of the case manager, unless stated otherwise. For those cases involving a Board order, each licensee may be monitored for compliance with the conditions imposed in the order.

The summary information provided under “IN-FORMAL ACTIONS” is provided to educate licensees on events and circumstances that come before the Board for investigation. In those cases no disciplinary action is taken because either the allegations are unsubstantiated, fall outside the scope of jurisdiction of the Board or it becomes unnecessary because of corrective measures taken. Any investigations that reveal clear and convincing evidence of wrongdoing will be listed under “FORMAL ACTIONS”.

These summaries are not intended to disclose complete details related to any given investigation or action. While every effort is made to ensure accuracy of the information shown, anyone intending to make a decision based upon this information should contact Ron Torrence, Deputy Executive Director at (360) 664-1566 for more details.

Formal Actions:

Marc Wagner, PLS, Case No. 04-06-0001

This Board generated investigation alleged that the licensee engaged in “unlicensed” practice of land surveying for approximately 3-½ years. During that time he prepared and sealed survey maps while his license was expired. During that period, drawings that he stamped showed his license was current when it actually had not been renewed. The licensee attributed the errors to his own oversight and lack of supervision over the work of his employees.

As a result, the case manager authorized the issuance of a Statement of Charges. In conjunction with that action, a settlement opportunity was offered. Terms

of the Agreed Order included: a reprimand; \$500 administrative fine; filing amended records of surveys of all affected projects and provide copies of each recorded amended record of survey to the clients and the Board.

A.C.E., Inc., Case No. 04-12-0001

This Board generated investigation of A.C.E., Inc., was opened as a result of the investigation of Marc Wagner, PLS. It was alleged that A.C.E., Inc., in which Mr. Wagner is the designated land surveyor, offered and provided land surveying services with an expired Certificate of Authorization. During the course of the investigation, Mr. Wagner did renew the Certificate of Authorization for A.C.E., Inc.

As a result of the investigation, the case manager authorized the issuance of a Statement of Charges against A.C.E., Inc. In conjunction with the charge documents, a settlement opportunity was offered. Terms of the Agreed Order included: a reprimand; \$500 administrative fine; submit the necessary fees and/or forms to renew the corporation's Certificate of Authorization. In the alternative, the corporation would be ordered to cease and desist from performing land surveying services in Washington.

Informal Actions:

Engineering

Case No. 04-03-0002

This investigation, prompted by a complaint from a developer of a residential condominium development, alleged that a professional engineer who were providing the project's engineering services was guilty of gross negligence, incompetence and misconduct. Further allegations included failure to disclose a conflict of interest; performing services outside his area of expertise and that in providing construction management services the PE recklessly ignored situations that may be detrimental to the client's project.

In response to the allegations, the PE provided numerous written explanations of his engineering activities and discussions were held with the reviewing authority to determine if the PE's submittals met the expected standard of care.

After review of all the documentation and exhibits, the case manager found there is no evidence to sup-

port gross negligence, incompetence, misconduct or that the PE misled his client.

(Note: During the investigation on this case the complainant withdrew his allegations and complaint. While anyone who makes a complaint has the right to withdraw their allegations, once the Board takes action to open an investigation the Board will continue to the appropriate conclusion regardless.)

Case No. 01-05-0001

This investigation was prompted by a complaint alleging that a Traffic Impact Analysis (TIA) was not correct and that the engineer who prepared it provided misleading testimony at public hearings. The allegations stated that the engineer's conduct put the public at risk of harm or injury.

After review of all documentation, the case manager found that there was no evidence to indicate the respondent violated any rules or laws under the jurisdiction of the Board or that the TIA was not properly performed.

(Note: As of the date of publication of the Journal, the complainant has asked that this decision be reconsidered.)

Case No. 05-03-0003

This investigation was opened by the Board based upon information received that a design of a garage/shop by a PE showed structural components were underdesigned and overstressed. The concerns were brought to the Board's attention by another PE who had reason to review the design.

The review by the case manager found that there appeared to be some minor errors and/or omissions in the calculations. However, it was the case manager's opinion that the respondent met a minimum competency level for the calculations provided.

Land Surveying:

Case No. 04-11-0004

This investigation was opened based on a complaint submitted by a property owner alleging that a survey performed by a professional land surveyor (PLS) failed to show details and encroachments. After being notified of the complaint, the licensee reviewed his record of survey and decided to amend his survey to address the issues. The case manager found the map

to be satisfactory. The licensee recorded the amended survey and provide copies to the Board and client.

Case No. 99-11-0008

This investigation was prompted by an inquiry from a public works director. In his letter he requested guidance on how to handle an approved and recorded final plat, when the surveyor shown on the plat denied having any knowledge of the plat. The Board opened an investigation against the firm of record and it's designated engineer.

The surveyor stated that he had worked for the firm as their designated land surveyor, but had resigned six months prior to the plat being filed with the city. In later correspondence he did admit that he had done preliminary work on the plat. The surveyor alleged that someone in the firm used his electronic seal and signature without his permission on the final plat. He admitted he had given his permission for the firm to create an electronic copy of his seal and signature. He stated that he had allowed this to be done to facilitate the filing and recording, by the firm, of maps he approved.

After review of all the documentation and exhibits it was found that an electronic signature of the licensee was allowed to be created inappropriately. While the surveyor claims its use in this case was not under his authorization there was insufficient evidence to determine who placed the seal and signature on the final plat. The matter was rectified when the new land surveyor for the firm accepted responsibility for the plat and recorded new documents with his seal and signature.

Case No. 05-02-0003

This investigation was prompted by a complaint which stated that the respondent failed to support his survey in court and that the survey was refuted by another surveyor. The complainant stated that she had made two attempts to contact the respondent about the court date. One attempt was by mail, however, the letter was returned undeliverable. The second attempt was a visit to the address of the licensee by the complainant that confirmed he had moved.

The controversy regarding the boundary revolved around the width of a street right of way. The respondent claims a width of 35 feet with the existing monuments being centered in that width. The opposing

surveyor in the dispute testified the width as 40 feet based on a deed to the governmental jurisdiction and the monuments were centered in that width. The finding by the court was that the right of way was 40 feet but the right of way based upon previous surveys was 17.5 feet north of the monumented line. The record of survey and supporting documents were reviewed by the case manager to determine whether or not the survey was correct and if the record of survey was adequate.

After review of all the documentation it was determined that the respondent had no way of knowing about the proposed court appearance. His map and procedures utilized accepted practices and care in forming his opinion of where the boundaries should be placed.

Case No. 03-11-0009

This investigation involved allegations that a surveyor failed to accept historical data resulting in the erroneous establishment of property lines and creating a subsequent boundary dispute. The complainants had hired the surveyor to verify the location of monuments marking property lines that were placed by another surveyor.

Based upon a review of the case information, the case manager concluded there was insufficient evidence or cause to pursue action. Some minor technical problems were noted but they did not rise to the level of formal action.

Unlicensed Practice:

Case No. 03-05-0003

This investigation involved allegations that a California based corporation was offering unlicensed land surveying services through its Washington State offices. The matter came to the Board's attention after receiving a copy of a magazine article and inquiry letter from a surveying association questioning the practice of the corporation.

State records revealed that the corporation was a valid corporation in the state of Washington but they had no authorization to offer landsurveying services. After reviewing the services being offered by the corporation, the case manager's opinion was that they were offering land surveying services since they were providing maps that clearly met the definition

Continues next page

of surveying in Washington. During the investigation, the corporation advised the Board that they were recruiting for a licensed land surveyor to oversee their Washington offices.

The case manager recommended that the investigation be closed since there have been no other complaints or inquiries about this firm and the web site offering these services is inactive. He also noted that the matter had resolved itself through the cooperation of the corporation and that, if needed, the case could be reopened in the future.

On-Site

Case No. 04-03-0003

This investigation involved allegations that an on-site practice permit holder failed to provide an on-site septic system design satisfactory to the County Health Department. The complainant also asked for reimbursement of monies paid to the construction contrac-

tor for the septic design.

Documents revealed that the respondent was hired by a contractor to do a septic system design for the complainant. The respondent had a valid on-site wastewater practice permit to perform design services during the time in question.

The respondent developed a design for his client's specifications. The design was not submitted to await an improvement in weather conditions. At about the time the client was ready to proceed he discharged the original contractor and retained the services of a second on-site designer. The second designer's design was approved shortly after submittal.

The case manager found no clear and convincing evidence to support the allegations. Other issues are outside the jurisdiction of the Board.

Continued from page 2

Message from the Chair

that targets the undergraduate engineering community. Developed by Wexler Marketing Group, the campaign seeks to raise student awareness of importance of licensure. The central message "Finish it" invites students in engineering programs to complete their degree and to begin the licensing process by taking the Fundamentals of Engineering (FE) exam. NCEES Manager of Meetings and Marketing Communications, Nina Norris says, "Because of the effort it takes to pass the FE exam, the students need to be convinced that it is a worthwhile investment of their time." The "Finish it" campaign communicates just that. It gives them a number of reasons to work toward passing the exam, and it does so in a way that is really attractive to their age group. Norris who also coordinates the campaign has already received positive feedback from many engineering students who are drawn to the bright colors as well as to the message of the campaign materials.

The campaign includes print advertisements, giveaway items, and posters that all contain the same message and imagery. NCEES Member Boards, professional societies and other organizations affiliated with the Council may request these items by contacting Nina Norris at nnorris@ncees.org.

GLOBALIZATION

Finally, I would like to have a brief discussion about a different subject, that of the inevitable "Globalization" of

the Engineering/Surveying professions. This globalization phenomenon has happened in trade, manufacturing, and support services. To demonstrate this point one only has to contact some product support service centers; where you will most likely get someone across the globe at the other end.

Take for example a situation near to my area of interest. The British Institutes of Civil/Structural Engineers have for years provided a path to membership and licensure on a global level through IStructE structural engineering examinations. They are also highly interested in pursuing efforts to integrate their exam process with those we use here in Washington.

On a similar note our Canadian neighbors have long expressed interest in doing the same. The APEGGA (Association of Professional Engineers, Geologist and Geophysicists of Alberta) is sponsoring an international mobility forum April 21, 2006. Two of our Board members will attend. While I am not necessarily advocating universal licensure in engineering, some form of international cooperation and recognition seem inevitable. It is in our collective best interests, whether as a professional group or as a regulatory body, to contemplate its effect and how we may take a forward- looking and proactive stand on the subject.

Schedules

Examination Schedule

Fall – 2005 Administration

| Examination | Type | Examination Date | Application Deadline |
|--|-------|------------------------------|----------------------------|
| Agricultural, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Industrial, Mechanical, Metallurgical, Mining, Nuclear, Petroleum, and Structural II Engineering | NCEES | Friday October 27, 2006 | Tuesday June 27, 2006 |
| Structural III | State | Friday October 27, 2006 | Tuesday June 27, 2006 |
| Land Surveying (6-hour) | NCEES | Friday October 27, 2006 | Tuesday June 27, 2006 |
| Land Surveying (2-hour) | State | Friday October 27, 2006 | Tuesday June 27, 2006 |
| Fundamentals of Engineering & Fundamentals of Land Surveying | NCEES | Saturday October 28, 2006 | Wednesday June 28, 2006 |
| On-Site Wastewater Designer / Inspector Certification | State | Saturday October 28, 2006 | Friday July 28, 2006 |

2006 Calendar of Events *

JUNE

| | | |
|-------|----------------------------|---------------------|
| 1-3 | NCEES Western Zone Meeting | <i>Santa Fe, NM</i> |
| 21-22 | Committee & Board Meeting | <i>Tri-Cities</i> |

AUGUST

| | | |
|-----|---------------------------|--------------------------------|
| 2-3 | Committee & Board Meeting | <i>LaQuinta Tacoma, WA</i> |
|-----|---------------------------|--------------------------------|

SEPTEMBER

| | | |
|-------|---------------------------|-----------------------------------|
| 6-7 | Committee & Board Meeting | <i>Spokane Airport Ramada</i> |
| 12-16 | NCEES Annual Meeting | <i>Anchorage, AK</i> |

OCTOBER

| | | |
|-------|--------------------------|--------------------------|
| 12-14 | APEGBC Annual Conference | <i>Victoria, BC</i> |
| 27-28 | Examinations | <i>Various Locations</i> |

NOVEMBER

| | | |
|-----|---------------------------|--------------------------------|
| 1-2 | Committee & Board Meeting | <i>LaQuinta Tacoma, WA</i> |
|-----|---------------------------|--------------------------------|

DECEMBER

| | | |
|----|---|--|
| 20 | Practice Committee Meeting Teleconference | |
|----|---|--|

*Locations and dates shown are subject to change. Please confirm by visiting the board Web site at:
<http://www.dol.wa.gov/engineer/engfront.htm>



Board of Registration for Professional
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